

December 8, 2003

EX PARTE

Ms. Marlene Dortch, Secretary
Federal Communications Commission
The Portals, TW-A325
445 12th Street, SW
Washington, D.C. 20554

Re: *Ex Parte* Presentation – Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On December 5, 2003, the undersigned, representing EarthLink, Inc., had a telephone conversation with Christopher Libertelli, Senior Legal Advisor to Chairman Powell, to discuss the above referenced proceedings. EarthLink discussed the issues raised in its October 2nd Petition for Reconsideration of the line sharing portion of the FCC's Report and Order and Order on Remand released August 21, 2003 ("*R&O*") and EarthLink's previously filed positions in the above-referenced dockets. EarthLink stated that the Commission should resolve the line sharing reconsideration before the [DC Circuit](#) rules in the pending judicial appeal of the *R&O*, especially given that 4 of the 5 Commissioners appear to support the line sharing UNE. EarthLink also noted concerns that the reconsideration be considered in an order separate from other reconsideration issues.

Pursuant to the Commission's rules, one copy of this memorandum is being filed electronically in each of the above-referenced dockets for inclusion in the public record. Please do not hesitate to call me if you have any questions.

Respectfully submitted,

/s/

Mark J. O'Connor
Counsel for EarthLink, Inc.